

McNamara Declaration

Exhibit 39

From: Lois Menzel
Sent: Thursday, February 28, 2013 8:22 PM EST
To: Internet Archive
Subject: Re: Support case *Deletion Request*

Dear Mr. Butler,

I understand how Open Library works. I have no objection to your Daisy files, nor in my titles being released as such. I do however object to your posting of ebooks for works that are still in copyright. A physical library with a physical copy has no legal right to scan that work and then make it available electronically. Your non-profit claim is disingenuous. Many authors (like me) are releasing their out-of-print titles as ebooks. If we lose a sale because you offer our work for free, that is a definite profit issue for us. Regardless of your good intentions, "the spirit of public benefit" is not entitled to free access to copyrighted materials made available in a illegal fashion.

You may keep my title as a Daisy file. You will please remove my scanned book as requested. It took you seven weeks to answer my email. I hope it doesn't take you another seven to remove my title from your lending library.

Thank you,

Lois Menzel

At 04:10 PM 2/28/2013, you wrote:

Dear Ms. Menzel,

My sincere apologies that this email has come to my attention late and it is being answered only now. I do find a response sent after your very first inquiry in 2010 in which we hoped to address your concerns. Unless I'm mistaken, we did not receive a reply to that email or any other communication from you until your email below.

We can take materials out of our collections, but prior to doing so, as it may not be entirely clear, I would like to be certain that you are aware of the very limited ways in which the texts of concern are made available at openlibrary.org, as well as the nature of our organization and services. Internet Archive is a 501.c3 non-profit online library and does not exploit materials in its collections at archive.org or openlibrary.org for commercial gain. Your books may be made available in two limited ways:

1. to registered blind and print-disabled patrons through a special initiative undertaken by our organization, as an encrypted file in a specialized format (DAISY file) that works with devices designed to read aloud text for the blind and print-disabled. We do this in coordination with the Library of Congress's National Library Service for the Blind and

Physically Handicapped (NLS), which provides registered and approved blind and print-disabled citizens with an encryption key that will enable the file to play.Â We have posted more information about this program at <http://blog.archive.org/2010/11/26/3424/> and you can find information about the Library of Congress' own program and requirements for eligibility at <http://www.loc.gov/nls/eligible.html>.


2. via our In-Library Lending Program, which enables an electronic copy to be borrowed by patrons of a physical library that participates in our program (there is a blog post about the program and list of participants here: <http://blog.archive.org/2011/06/25/in-library-ebook-lending-program-expands-to-1000-libraries/>).Â When an electronic copy of a book is checked out by a patron, that copy is not available to others. After a two-week period, the electronic copy expires and throughout the lending period is protected from copying in a manner similar to how ebooks are protected when distributed by booksellers.

In short, we have sought to limit the availability of more recent books through our site to ways which are analogous to how physical libraries lend to the public and make available books to the print-disabled outside of the scope of licensing.Â Please be assured that these programs are offered solely in the spirit of public benefit via expanded access to library services.

Again, thank you for contacting us. We appreciate whatever consideration these explanations afford the matter anew. I am at your service if you have continuing objections or further questions.

Best Regards,

Christopher Butler
Office Manager
Internet Archive


www.archive.org

----- Original Message -----

Subject:Â Â Â Â Support case *Deletion Request*

Date:Â Â Â Â Mon, 11 Feb 2013 07:18:05 -0800 (PST)

From:Â Â Â Â ljfm@means.net

To:Â Â Â Â info@archive.org

A new support case has been filed

Topic: Deletion Request

Description:

Copyright infringement: Celia by Lois Menzel

<http://openlibrary.org/works/OL3975743W/Celia>

Under penalty of perjury, I swear that I am the owner of the copyrighted material described in this letter and that the identified copyrighted material is allegedly being infringed and that I have the right to act on my own behalf to seek redress for this alleged infringement.Â I have a good faith belief that use of my copyrighted material in the manner complained of is not authorized by myself, any agent of mine or by the copyright laws.Â I further swear under penalty of perjury that the information contained in this letter is true and accurate. Lois Menzel
4235 Lonsdale Blvd. W. Northfield, MN 55057. Ph: 507-744-2664
ljfm@means.net

This is the second time I have had to contact your site for such infringement.

Message-ID: <4C350A12.4030002@archive.org>

Date: Wed, 07 Jul 2010 16:13:22 -0700

From: Internet Archive <info-reply@archive.org>

User-Agent: Thunderbird 2.0.0.24 (Windows/20100228)

MIME-Version: 1.0

To: [REDACTED]

Subject: re: Open Library - website problem

Content-Type: text/plain; charset=ISO-8859-1; format=flowed

Content-Transfer-Encoding: 7bit